

AMENDMENTS TO THE DRAWINGS:

The attached sheets of drawings include changes to FIGS. 1, 2 and 4. These sheets, which include FIGS. 1 through 8, replace the original sheets including FIGS. 1 through 8. In FIG. 1, element 90 with accompanying lead line has been added. In FIG. 2, element 210' with accompanying lead line has been added. In FIG. 4, element 90 with accompanying lead line has been added and element 104 has been revised in placement.

Remarks

The Office Action mailed March 9, 2006, has been reviewed. Claims 2, 9, 14 and 21 are amended in this paper to clarify the scope contemplated in a malleable and deformable conduit, as claimed. No claims added or cancelled in this paper. Accordingly, claims 1 through 25 remain in the case before the Examiner.

OBJECTION TO THE DRAWINGS

The objection to the drawings under 37 C.F.R. 1.83(a) is believed to be mooted by submission of the attached replacement sheets. As indicated in red, replacement sheet 1 / 2 includes the addition of a proposed resilient ring 210 disposed at a second position and indicated by numeral 210' in FIG. 2. Support structure 90 is proposed to be added to FIG. 1, in accordance with the Examiner's demand to illustrate a bottle being suspended by a resilient ring in a storage device.

Replacement sheet B (page 2 / 2) includes drawings changes submitted in the reply to the previous Office Action, which are believed to have been approved and entered by the Examiner. As further indicated in red on replacement sheet B, support structure 90 is proposed to be added to FIG. 4, in correspondence with the proposed change to FIG. 1.

Foundation for the proposed drawings changes is found in the as-filed Specification and claims, including paragraphs [0027 and 0028]. Approval and entrance of the replacement drawing sheets is requested. Subsequent to entrance of the replacement sheets, the objection to the drawings should be withdrawn.

35 U.S.C. § 102:

The rejection of claims 14 and 21 under 35 U.S.C. § 102(b) is traversed. As understood, the rejection is based upon a broad interpretation of the scope encompassed by "malleable and deformable".

Prior to entrance of the instant amendment, each of claims 14 and 21 required the conduit disposed between the pump head and the atomizing nozzle to include a malleable and deformable portion permitting orientation of a direction of discharge from the nozzle. The rejection apparently contemplates bends formed in metal pipes, which inherently requires use of

machinery or other tools, as being encompassed in such requirement. However, as characterized at paragraph [0030], "With reference again to FIG. 2, it is preferred for a conduit 215 to include a malleable and deformable portion to permit a user to define a bend in conduit 215 to aim a discharge direction from nozzle 218". As reasonably conveyed by the as-filed Specification, the purpose of such adjustment is to permit a user to simply and easily change discharge directions (e.g. between a horizontal discharge and a vertical discharge), from the same dispenser without requiring cumbersome adjustments that require use of tools or machinery.

Claims 14 and 21 are amended in this paper to clarify that the malleable and deformable portion is user adjustable. Such limitation was believed to be included in the respective claims prior to the instant amendment. The instant amendment therefore simply adds clarification to that which was believed to be claimed previously, and explicitly places claims 14 and 21 into harmony with the disclosure.

In contrast to the deformable conduit portion required by claims 14 and 21, Chaffin et al. disclose hollow piston rod 16 including curved portion 48 and end portion 39. At Col. 1, lines 44-50, the piston rod is connected to fitting 17 by soldering. Therefore, disclosed piston rod 16 logically is made from a solderable metal. At Col. 2, lines 87-90, the end portion 39 is disclosed as extending at right angles to the major portion thereof. Applicant does not find anything in Chaffin et al.'s entire disclosure that even suggests piston rod 16 should be sufficiently malleable and deformable that a user can adjust the angle of end portion 39 with respect to the major portion thereof.

Furthermore, operation of the disclosed embodiment is characterized at Col. 3, lines 6-43, and particularly at lines 24-36. As disclosed, piston rod 16 is reciprocated by a user to operate the pump mechanism and cause a discharge of fluid. Logically, piston rod 16 must constitute a substantially rigid pipe that is bent into the illustrated shape to accept a user's pumping input. It appears that the horizontal portion 39 must constitute a substantially rigid actuator handle (or interface) through which a user may impart a vertical motion to piston rod 16. Arguendo, if the asserted bent portion 48 were deformable, within the ambit of claims 14 and 21, the presence of such deformable portion would logically interfere with operation of Chaffin et al.'s pump. That is, rather than raise and lower piston rod 16 to operate the pump mechanism associated with the lower end of piston rod 16, the asserted flexible bend portion 48 would simply deform.

Claims 14 and 21 both require at least one element not disclosed by Chaffin et al. Applicant submits that Chaffin et al. fail even to suggest the conduit having a malleable and deformable portion within the ambit of the rejected claims.

The rejection of claims 14 and 21 under 35 U.S.C. § 102(b) should now be withdrawn.

35 U.S.C. § 103:

The various rejections of claims 1-13, 15-20 and 22-25 under 35 U.S.C. § 103 are traversed. A proper *prima facie* case has not been established with respect to any of these claims, particularly in view of the clarifying amendment made to claims 2, 9, 14 and 21 presented in this paper. The rejections fail to point out where, in the references themselves, any suggestion to make a combination resulting in a structure within the ambit of the claims can be found. The mere fact that (even off-the-shelf) components *can be* assembled to form a claimed structure does not make such claimed structure “obvious”, and cannot properly sustain a rejection as a matter of law set forth in 35 U.S.C. § 103(a). A rejection lacking proper support in the references themselves smacks of having a basis only in improper hindsight reconstruction.

Claims 1, 2, and 20

The rejection of claims 1, 2, and 20 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Resnick (US 5,564, 665) is traversed. This rejection is also further avoided by the instant amendment to claim 2 and base claim 14, which are changed to clarify the scope believed to have been encompassed within “malleable and deformable” in view of the instant Specification.

With respect to claim 1, the primary and secondary references are directed to different areas of technology, and therefore a person of ordinary skill in the art would not necessarily be motivated to locate them both and combine their teachings. The rejection fails to point out where, in the references themselves, motivation is found to make the asserted combination.

Further, the secondary reference is directed to coupling a flower bud vase and a candlestick holder. Logically, such coupling would be motivated by a desire to form an attractive display. Apparently, flower bud vases do not normally include stopper structure operable to

suspend the vase from suspension structure of a candlestick holder. In contrast, the conventional prior art bottle 118 illustrated in FIG. 4 does include support structure 128. Applicant has made the inventive leap of replacing a known support 128 with an alternative support 210 to enable use of lower cost bottles (see paragraph [0023]). Applicant's motivation appears to be different than the logically addeuceable motivation attributed to the reference.

Claim 2 is amended to clarify the scope believed to be encompassed by a claimed conduit that is "malleable and deformable." Claim 14, from which claim 20 depends, is similarly amended in this paper. Applicant submits that Chaffin et al. do not disclose, or even suggest, structure forming a user-adjustable malleable and deformable conduit, as claimed. Resnick fails to disclose or suggest the structure missing from the principle reference.

The rejection of claims 1, 2, and 20 under 35 U.S.C. § 103(a) should now be withdrawn.

Claims 3-7

The rejection of claims 3-7 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Resnick as applied to claims 1 and 2 above, and further in view of Cobb (US 6,253,971) is traversed, but is further avoided in view of the amendment to claim 2 presented in this paper.

As presented above, it is believed that the "malleable and deformable" limitation recited in as-filed claim 2 intended to require that a *user* could easily make changes in the shape of the conduit to adjust the direction of fluid discharge from the nozzle. Claim 2 is clarified in this paper to explicitly recite such requirement, thereby clearly placing claim 2 in harmony with the Specification. Claims 3-7 all variously depend from claim 2, and thereby require such limitation. Both of the primary and secondary references are defective with respect to the claimed arrangement of structure. Cobb is apparently relied upon only for his disclosure of brace structure. In any case, Applicant submits that Cobb fails to supply the disclosure missing from the primary and secondary references.

Furthermore, adding a brace, such as disclosed by Cobb, to Chaffin et al.'s conduit 39 would destroy utility of Chaffin et al.'s device. Claim 3 requires the brace to resist movement of

the nozzle when actuating the pump mechanism. Piston rod 16 is believed to be a substantially rigid metal member. Horizontal conduit portion 39 of piston rod 16 carries nozzle 40 and must travel through a vertical distance to actuate the pump mechanism. Installation of Cobb's brace element onto horizontal portion 39 would interfere with such required vertical movement, and preclude actuation of Chaffin et al.'s pump mechanism. Therefore, the asserted combination would not form a workable device within the ambit of claim 3, from which claims 4-7 depend. Claims 6 and 7 further require structure adapted to resist motion of the discharge nozzle, which logically would prevent operation of Chaffin et al.'s device, as understood.

Furthermore, both of claims 4 and 5 recite a clip-on attachment, which cannot logically be adduced from any structure disclosed by Cobb. Applicant submits that "clip-on" attachment is entirely different from "insert axially into engagement." With respect to claim 4, and with reference to Applicant's FIGs. 4 and 5, brace 238 carries attach structure 242 adapted to clip-on to bottle neck 250. Clip-on attachment is effected by pressing open end of structure 242 in a direction *transverse* to an axis of symmetry of the gripped portion of bottle neck 250. In contrast, Cobb discloses (FIGs. 1 and 2) ring 32 that substantially wraps lip 22 and precludes such transverse clip-on attachment. Instead, Cobb's lip 22 must be inserted axially into a bore formed in ring 32. With respect to claim 5, attach channel 252 (Applicant's FIG. 5) is adapted for clip-on attachment to conduit 215 by pressing conduit 215 (in a direction that is *transverse* to an axis of symmetry of the conduit) into reception inside channel 252. In contrast to the required clip-on attachment, Cobb discloses tubes are inserted axially into reception in bores 58, 78 (e.g. Col. 4, lines 26-31).

The rejection of claims 3-7 under 35 U.S.C. § 103(a) should now be withdrawn.

Claims 8-12 and 15-19

The rejection of claims 8-12 and 15-19 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Cobb is traversed. This rejection is further avoided with respect to claim 9 by the clarifying amendment to claim 9 presented in this paper. This rejection is also further avoided with respect to claims 15-19 by the clarifying amendment to their base claim 14 presented in this paper.

As advanced above, in connection with claims 3-7, Applicant submits that the asserted combination (of Cobb's brace applied to Chaffin et al.'s pump rod 16), actually destroys utility of Chaffin et al.'s device by at least substantially precluding movement of pump rod 16. Cobb's brace, anchored to the container at one end, and anchored to pump rod 16 at the other end, would form a fully constrained truss element. The required vertical motion of pump rod 16 would be precluded by the constraint applied by Cobb's brace. Consequently, a user could no longer actuate Chaffin et al.'s pump mechanism. Therefore, it would be illogical to make the asserted combination. The asserted combination simply fails to produce a workable device within the ambit of either base claim 8 or claim 15. Claims 9-12 each depend from base claim 8, and thereby avoid this rejection. Claims 16-19 depend variously from claim 15, and thereby also avoid this rejection.

Claim 9 is amended in this paper to clarify that the malleable and deformable portion is user adjustable. Such limitation was believed to be included in claim 9 prior to the instant amendment. The instant amendment therefore simply adds clarification to that which was believed to be claimed previously, and explicitly places claim 9 into harmony with the disclosure.

The rejection fails to point out where Cobb suggests locating a fulcrum at a third elevation that is approximately midway between top and bottom pump-stroke elevations so as to reduce a *horizontal* displacement of the fulcrum during vertical actuation of the pump mechanism. Such third location is explicitly required by claims 10 and 19. Even if, arguendo, the references in combination did suggest adding a brace element to a pump bottle, the rejection fails to point out where the references suggest forming a fulcrum point at the claimed position.

As advanced in connection with claims 4 and 5 above, structure permitting clip-on attachment, as required by claims 11 and 17, is not disclosed by Cobb. Therefore, the combination of structure disclosed by the combined references fails to produce a device within the ambit of claims 11 and 17.

Similar to claims 10 and 19, claim 18 recites structure configured and arranged to reduce a *horizontal* deflection of the nozzle during actuation of the pump mechanism, but in alternative language. At paragraph [0036] the Specification discloses structure within the ambit of claim 18: "As an alternative, or even additional measure, proximal end 255 of conduit 215 can be bent, or formed in some nonlinear shape, to permit its extension and contraction (bending and unbending,

to act as a spring element), to reduce or eliminate a corresponding horizontal motion of attach structure 248 (and consequently nozzle 218), during vertical displacement of the pump head 212". The rejection fails to point out where, even in combination, the references suggest such an arrangement of claimed structure.

The rejection of claims 8-12 and 15-19 under 35 U.S.C. § 103(a) should now be withdrawn.

Claim 13

The rejection of claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Cobb as applied to claim 8, and further in view of Resnick is traversed.

As advanced above, in connection with claims 3-7, and claims 8-12 and 15-19, Applicant submits that the asserted combination (of Cobb's brace applied to Chaffin et al.'s device), actually destroys utility of Chaffin et al.'s device by precluding movement of pump rod 16. Therefore, it would be illogical to make the asserted combination. The asserted combination fails to produce a workable device within the ambit of base claim 8, from which claim 13 depends.

The rejection of claim 13 under 35 U.S.C. § 103(a) should now be withdrawn.

Claims 22 and 23

The rejection of claims 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Haberl (US 6,105,620) is traversed.

The arguments advanced above under 35 U.S.C. § 102(b) in connection with base claim 21 also apply to dependent claims 22 and 23. It is believed that Chaffin et al.'s piston rod 16 is a substantially rigid pipe. Rigidity of Chaffin et al.'s pipe 16 is logically required to enable a user to impart a pumping action to the pump mechanism. Arguendo, if piston rod 16 were replaced by the conduit of Haberl, as asserted in the rejection, the force imparted by a user on horizontal portion 39 would deform that portion of piston rod 16 which is exposed outside of cap 135, thereby rendering Chaffin et al.'s device useless.

The rejection of claims 21-23 under 35 U.S.C. § 103(a) should now be withdrawn.

Claims 24 and 25

The rejection of claims 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Chaffin et al. in view of Haberl, and further in view of Cobb is traversed. Cobb is apparently asserted only for his disclosure of a brace. However, Applicant submits that Cobb fails to disclose, or suggest, structure sufficient to cure the defect noted with the rejection of base claim 21, as advanced above in connection with the rejection of claims 22 and 23.

Furthermore, claim 25 requires that a proximal conduit portion “disposed between said pump head and an attach location on said conduit for structure carried by said brace, can be arranged in a nonlinear configuration whereby to permit vertical displacement of said pump head to actuate said pump mechanism while reducing a correspondingly required horizontal displacement of said attach structure”. As stated previously in connection with claim 18, an exemplary nonlinear conduit portion is characterized at paragraph [0036]. It is believed that no combination of the references even suggests such claimed nonlinear proximal conduit portion.

The rejection of claims 24 and 25 under 35 U.S.C. § 103(a) should now be withdrawn.

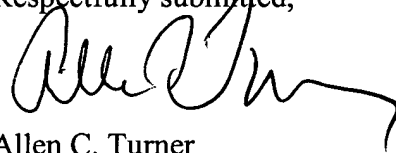
PRIOR ART MADE OF RECORD:

A cursory review of the prior art made of record in the Office Action does not indicate that such art is more relevant than art already relied upon.

Conclusion

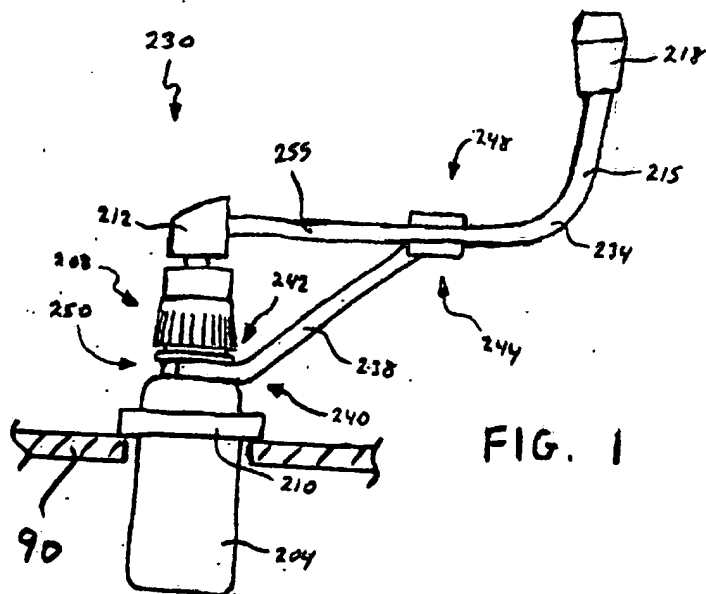
Applicant requests that the instant amendment be entered and that a Notice of Allowance be issued for claims 1-25. If any questions or issues remain which might most conveniently be resolved by telephone interview, FAX, or by e-mail, the Examiner is respectfully requested to communicate with the representative at the below indicated contact information.

Respectfully submitted,

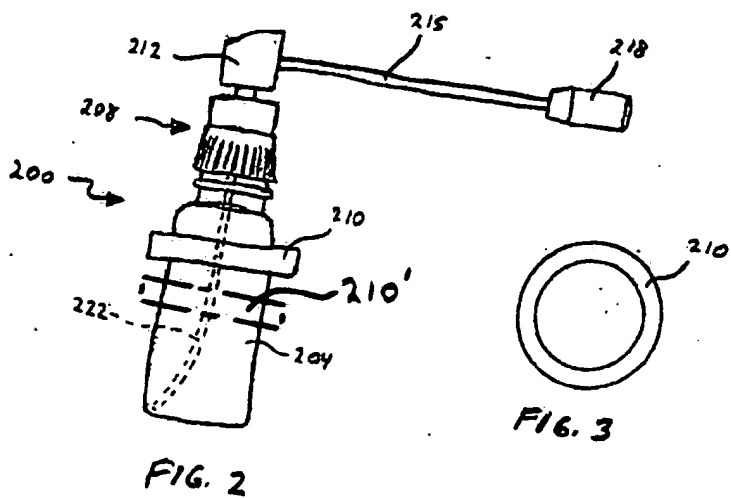


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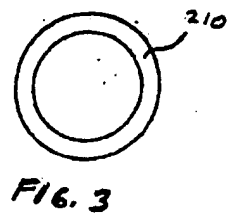
Date: May 31, 2006
ACT/bv



element
90
added



element
210'
added



2/2

FIG 4 PRIOR ART

